

FEDERAL ELECTION COMMISSION
TARIAT

JUL 10 2006

BEFORE THE FEDERAL ELECTION COMMISSION

2006 JUL 10 P 4:44

In the Matter of)
)
MUR 5676)
US-CUBA DEMOCRACY POLITICAL)
ACTION COMMITTEE)
)
)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

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The Office of General Counsel has scored MUR 5676 as a low-rated matter. Under the Enforcement Priority System, matters that are low-rated and are deemed inappropriate for review by the Alternative Dispute Resolution Office are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The facts giving rise to this complaint involve an alleged unpaid debt owed from respondent, US-Cuba Democracy Political Action Committee ("USCDPAC") to respondent Steptoe and Johnson, LLP. The unpaid debt, amounting to \$15,262.50, was incurred for legal fees provided by Steptoe & Johnson to USCDPAC in 2003. The complainant claims that the debt was actually an extension of credit to USCDPAC and was not treated by Steptoe & Johnson in a commercially reasonable manner.

Steptoe & Johnson refutes the allegation and avers that the debt was handled in the same manner as clients who have similar outstanding balances. Furthermore, Steptoe & Johnson asserts that the Commission's regulations do not recognize debts involving legal

1 fees as contributions if they are associated with services rendered on behalf of a political
2 committee that is attempting to comply with the Federal Election Campaign Act. 11 CFR
3 §100.86. Finally, Steptoe & Johnson point out that the debt was repaid by USCDPAC on
4 August 31, 2005.

5 In light of the amount of the alleged activity, the repayment of the debt by the
6 committee, the statements provided by the respondents, and after a review of the merits of
7 MUR 5676 in furtherance of the Commission's priorities and resources relative to other
8 matters pending on the Enforcement docket, the Office of General Counsel believes that the
9 Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler*
10 *v. Chaney*, 470 U.S. 821 (1985).

11 **RECOMMENDATION**


12 The Office of General Counsel recommends that the Commission dismiss
13 MUR 5676, close the file effective two weeks from the date of the Commission vote, and
14 approve the appropriate letters. Closing the case as of this date will allow CELA and
15 General Law and Advice the necessary time to prepare the closing letters and the case file for
16 the public record.

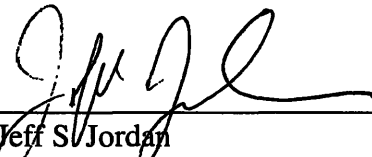
17 James A. Kahl
18 Deputy General Counsel
19

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23 Date

7/16/06

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BY:


Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Attachment:

Narrative in MUR 5676

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4 **MUR 5676**

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6 **Complainant:** Melanie Sloan, Executive Director for
7 Citizens for Responsibility and Ethics in Washington
8

9 **Respondents:** US-Cuba Democracy Political Action Committee and
10 Gus Machado, as Treasurer
11 Steptoe & Johnson LLP
12

13 **Allegations:** Complainant alleges that the respondent US-Cuba Democracy Political
14 Action Committee ("USCDPAC") accepted a prohibited contribution from Steptoe &
15 Johnson, a federal contractor. Specifically, the complainant maintains that Steptoe &
16 Johnson extended credit amounting to \$15,262 to the USCDPAC for at least a two-year
17 period and has not made any attempt to collect on the debt. The debt was apparently for
18 legal fees performed by Steptoe & Johnson. The complainant assert that the terms of the
19 loan could not possibly have been considered "commercially reasonable." Consequently,
20 Steptoe & Johnson made a prohibited contribution to USCDPAC. Complainant notes
21 that Steptoe & Johnson was a federal contractor at the time of the transaction, since it was
22 awarded a government contract on or about September 23, 2002 with the Department of
23 Agriculture.
24

25 **Responses:** The respondent, Steptoe & Johnson, noted that the debt at issue was repaid
26 on August 31, 2005. Moreover, the firm treated the debt "substantially similar" to the
27 manner in which it treats similar balances with other clients. Finally, even if the debt had
28 been forgiven by the firm it could not have been considered a contribution under the
29 Commission's regulations (see 11 C.F.R. § 100.86), since the debt was for legal services
30 rendered on behalf of a legal committee. USCDPAC acknowledged the debt in its
31 response and noted that it had been repaid and would be properly reported.
32

33 **Date complaint filed:** August 15, 2005
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35 **Response filed:** September 6, 2005

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